

Resolution of the City of Jersey City, N.J.

City Clerk File No. Res. 15.641

Agenda No. 10.H

Approved: SEP 09 2015



TITLE:

RESOLUTION AUTHORIZING THE SALE OF 268 FAIRMOUNT AVENUE AT PUBLIC AUCTION SUBJECT TO THE CONDITION THAT THE SUCCESSFUL PURCHASER RENOVATE FIVE UNOCCUPIED UNITS AND SUBJECT TO THE RESTRICTION THAT THE SUCCESSFUL PURCHASER MAINTAIN THE PROPERTY AS AFFORDABLE RENTAL HOUSING UNITS

COUNCIL
following resolution:

offered and moved adoption of the

WHEREAS, the City of Jersey City ("City") is the owner of 268 Fairmount Avenue also known as Block 15003, Lot 29 ("Property"); and

WHEREAS, the Property is a seven (7) unit rental residential building with two (2) occupied units and five (5) unoccupied units that need to be renovated; and

WHEREAS, the City made a loan in 2004 in the amount of \$299,152.00 to Fairmount Housing Corporation ("FHC"), the former Property owner, for the purpose of renovating the Property and constructing seven (7) units of affordable rental housing units; and

WHEREAS, the City made a second loan to FHC in 2009 in the amount of \$140,900.00 for the purpose of making additional improvements to the Property; and

WHEREAS, the loan funds are federal HOME program funds and a condition of the loans is that the Property be restricted to use as affordable rental housing units for a period of thirty (30) years commencing on December 7, 2004 and ending on December 7, 2034; and

WHEREAS, the City intends to sell the Property at public auction to the highest bidder pursuant to N.J.S.A. 40A:12-13(a) subject to certain terms, conditions, and restrictions set forth below; and

WHEREAS, the successful purchaser will be required to assume the loans that the City made to FHC and to maintain the Property as affordable rental housing units until December 7, 2034; and

WHEREASE, the successful purchaser will be required to make the repairs described in the Scope of Work attached hereto as Exhibit "A"; and

WHEREAS, the Property is not needed for public use;

NOW THEREFORE BE IT RESOLVED, by the Municipal Council of the City of Jersey City that:

1. The Property listed below is hereby offered for public sale at the City Council Chambers, City Hall, 280 Grove Street, Jersey City, New Jersey on **Thursday, October 29, 2015 at 10:00a.m.** to the highest bidder at no less than the minimum price set forth herein, subject to the conditions hereinafter as set forth and in the terms and conditions of a contract of sale to be executed by the parties immediately after the conclusion of the bidding.
2. The sale shall be conducted by the Department of Administration, Real Estate Office or by persons designated by the Business Administrator.

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3. The sale shall be made subject to:
 - a. such state of facts which an accurate survey may disclose;
 - b. easements and restrictions of record, if any;
 - c. tenancies, leaseholds, and rights of persons in possession;
 - d. all federal, state, county and municipal laws, statutes, codes, ordinances, rules and regulations affecting the Property, its use and occupation;
 - e. riparian rights or claims;
 - f. Certificate of Occupancy issued by the Division of Building.
4. The Property herein described, or any part thereof, are sold "as is" and without any representation or warranty, either expressed or implied, as to its present condition.
 - a. Prospective purchasers are put on notice that the City's records as to any code violations may not be accurate or up to date and the City expressly makes no representations as to such violations.
 - b. Purchasers will be given an opportunity to inspect the Property prior to the auction to ascertain the condition of the Property.
 - c. It shall not be grounds to nullify the contract of sale if the Purchaser discovers or is notified of any code violations after the sale.
5. In the event that the State of New Jersey or any upland owner shall have any rights or claims on the land being sold herein by reason of a riparian interest or otherwise are to be paid for and borne by the Purchaser, in addition to the sale price which is bid for said Property.
6. The purchase price for the Property shall be paid by any of the following methods:
 - a. By payment to the City in cash, money order, bank check or certified check the full purchase price immediately after the conclusion of the bidding.
 - b. By payment to the City immediately after the conclusion of the bidding ten (10%) percent of the minimum bid price by cash, money order, bank check or certified check.
 - c. The balance of the purchase price is to be paid by certified check, money order or bank check within two (2) months of the date of Confirmation of Sale.
 - d. If the Purchaser fails to pay the balance of the purchase price within two (2) month time limit, the sale to the Purchaser is automatically canceled and the deposit shall be forfeited.

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7. Purchaser may at its option arrange for a report on title before closing. Within thirty (30) days after the confirmation of sale by the governing body, Purchaser shall notify the City in writing of any defects of title which may render title unmarketable. Marketable title is defined herein to mean title which a title company authorized to do business in the State of New Jersey is willing to insure at regular rates. Upon confirmation of such notice, the City shall refund Purchaser's entire purchase price without interest and neither party shall have any further obligation or claim under this contract. If the Purchaser fails to notify the City in accordance with this paragraph, purchaser shall be deemed to have waived all objections to title.
8. Upon delivery of deed, the Purchaser shall:
 - a. Make all payments to the City for all real property taxes.
 - b. Submit proof to the City that the deed to the Property was recorded with the Hudson County Register at 257 Cornelison Avenue, Jersey City, New Jersey 07302 within thirty (30) days following the closing or delivery of the deed. If proof is not submitted to the City, the deed will be null and void and the consideration paid by the Purchaser shall be forfeited to the City.
9. If Purchaser fails to pay the purchase price when due or within a time as extended or fails to comply with any term of the Contract of Sale, the Division of Real Estate may at its option rescind the contract or sue Purchaser for any damages accruing or both. The City's failure to exercise any right or power arising out of Purchaser's breach of this contract shall not be deemed a waiver.
10. The highest bid shall be made subject to acceptance or rejection by the governing body, but the acceptance or rejection shall be made not later than the second regular meeting of the governing body following the sale, and if the governing body shall fail or refuse to accept or reject the highest bid as afore said, the said bid shall be deemed to have been rejected. The City also reserves the right to reject all bids where the highest bid is not accepted upon notice to the highest bidder and hearing thereto.
11. **PLEASE TAKE NOTICE** that no employee, agent, officer body or subordinate body has any authority to waive, modify or amend any of the conditions of sale without the express approval of the governing body of the City.
12. No commissions shall be paid to any agent, representative or broker or the successful Purchaser of any of the properties listed for sale by the City.
13. The price set forth as the minimum bid herein is merely an upset price and does not constitute market value or future assessments.
14. The City shall execute a Contract of Sale with the successful bidder upon any additional terms and conditions which are necessary to effectuate the purposes herein and to secure the best interests of the City and its citizens, provided that any additional terms and conditions shall not be inconsistent with the terms and conditions of this resolution.

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15. Additional Conditions of Sale.

- a. No sale shall be made to any person nor shall said person be permitted to bid who, prior to such sale, has purchased the Property being sold or any other property from the City and has breached any of the conditions and terms of the purchase of property from the City.
- b. No person who was the previous owner of the Property to be sold shall be permitted to bid for said Property if the Property was acquired by the City by reason of the non-payment of taxes or other municipal charges by such prior owner.
- c. No person shall be permitted to bid for the Property to be sold by the City if that person is delinquent in the payment of taxes or other municipal charges on any other property which such person shall own in the City.
- d. No sale shall be made to any person who owns other property in the City for which there exists violations of the Property Maintenance Code and/or Uniform Construction Code, which violations have not been corrected at the time of the sale.
- e. **PLEASE TAKE NOTICE** all bidders, whether they are the actual prospective purchasers or agents of or representatives of the actual prospective purchasers, shall submit an affidavit, under oath, setting forth the following:
 - i. That the actual purchaser is not a person who has previously breached a contract for the purchase of property from the City. That the actual prospective purchaser is not the former owner from whom the City acquired the property to be sold or any other property by reason of the non-payment of taxes or other municipal charges.
 - ii. That the actual prospective purchaser is not the owner of any other property in the City who is delinquent in the payment of taxes or other municipal charges on said other property.
 - iii. That the actual prospective purchaser is not the owner of any other properties in the City where there exist violations of the Property Maintenance Code and/or Uniform Construction Code, which violations have not been corrected at the time of the sale.
 - iv. Such affidavit shall contain the address and block and lot numbers of all the properties that the prospective purchaser owns in the City.
- f. Such affidavit shall be submitted to the officer conducting the sale prior to the commencement of the public auction. Failure to submit said affidavit shall disqualify a bidder from participating in the public auction.
- g. No sale to the highest bidder shall be confirmed by the Municipal Council, in the event an investigation and/or inspection reveals that the Purchaser is a person who falls within the categories listed in paragraph 15 sub-sections (a) through (f).
- h. In the event a sale is confirmed by the Municipal Council and after the sale has been confirmed by the Municipal Council, it is discovered that the Purchaser is a person who falls within the categories set forth in paragraph 15 sub-sections (a) through (f) of this resolution, then the Purchaser is placed on notice that the said confirmation of sale shall be rescinded by the Municipal Council.

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16. The City conveys this property to Purchaser so long as the Purchaser rehabilitates the rental units in accordance with the Scope of Work attached hereto as Exhibit "A" and the units shall be compliant with the State Uniform Construction Code and the City's Property Maintenance Code. In addition, the units must successfully pass a housing quality inspection conducted by the City's Division of Community Development. Upon receiving a deed, the Purchaser shall have six (6) months to complete the work described in the Scope of Work.

The Division of Community Development may grant a three (3) month extension of the rehabilitation period provided there is reasonable cause why the extension is necessary and the Purchaser provides the City with appropriate documentation that supports the extension request.

17. **PLEASE TAKE NOTICE** the Purchaser shall not sell, convey or otherwise transfer the Property until the Purchaser has rehabilitated the Property in compliance with the conditions of sale contained in this resolution. If the buyer: 1) fails to make the required repairs within the time allotted in Paragraph 16, 2) sells or attempts to sell the Property before making the required repairs, or 3) refuses access to City Officials seeking to inspect the Property, title to the property shall automatically revert and become vested in the City. The City Council shall upon the Purchaser's completion of all the terms, conditions, and restrictions contained in this resolution and in the Contract of Sale adopt a resolution stating such fact and shall remove from the deed the restriction against alienation.

18. **Affordability Restriction.**

The City made a loan in 2004 in the amount of \$299,152.00 to Fairmount Housing Corporation ("FHC"), the former Property owner, for the purpose of renovating the Property and constructing seven (7) affordable rental housing units. The City made a second loan in 2009 in the amount of \$140,900.00 to FHC for the purpose of making additional improvements to the Property. The loan funds are federal HOME program funds. The loans were made subject to the condition that the Property is restricted to use as affordable rental housing units for a period of thirty (30) commencing on December 7, 2004 and ending on December 7, 2034. The successful Purchaser will be required to assume the loans that the City gave to FHC and continue to maintain the Property as affordable rental housing units until December 7, 2034. The sale of the Property shall also be subject to such additional terms and conditions as may be required by the State of New Jersey or the United States Department of Housing and Urban Development to effectuate the assumption of the mortgages and notes and compliance with their affordability controls. The Purchaser shall demonstrate compliance with this requirement by properly certifying tenants with the Division of Community Development before the units are initially occupied and re-certifying all tenants annually thru 2034. So long as the Property remains within the restricted period, any sales of the Property must be expressly subject to these restrictions and deeds of conveyance must include the restrictions contained in this resolution. No sale of the Property shall be lawful unless the approved in advance and in writing by the City's Business Administrator.

These units are governed by the Low Rent Limit (50% AMI). Based upon 2014 HUD Rent Limits, the maximum rent limit for a two (2) bedroom unit is \$867. Because the tenants pay for their utilities, they are entitled to a \$128 utility adjustment. The net rent would be \$739.

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19. Reversion of Title

The affordability restriction shall be binding upon the Purchaser and all subsequent purchasers of the Property through December 7, 2034. Enforcement shall be by proceedings at law or in equity, against any person or persons violating or attempting to violate any covenant, either to restrain the violation or recover damages or to cause forfeiture of all rights and title to the Property and all interests therein without any entry or reentry made thereon, at the sole discretion of the City.

20. All offers to bid shall be in increments of no less than one thousand dollars (\$1,000.00).

BUILDINGS

THE PROPERTY IS OFFERED FOR SALE WITH THE CONDITIONS THAT THE PURCHASER SHALL REPAIR, ALTER AND IMPROVE THE PROPERTY AND MAINTAIN IT AS AFFORDABLE RENTAL HOUSING UNITS IN ACCORDANCE WITH PARAGRAPHS 16, 17, AND 18 OF THIS RESOLUTION

BLOCK	LOT(S)	LOCATION	DESCRIPTION	SIZE	MINIMUM BID
15003	29	268 Fairmount Avenue	3S F 7U H	30x115	\$145,000.00

Description Codes: S-Story, F-Frame, B-Brick, A-Asphalt, C-Cinder Block, BT- Basement, D-Dwelling, U-Unit, G-Garage, H-Heat.

Physical description of each property as set forth in this Land sale are for informational purposes only and the City of Jersey City will not be responsible for their accuracy.

APPROVED: Ann Marie Miller, Real Estate Manager

APPROVED AS TO LEGAL FORM

APPROVED: [Signature]
Business Administrator_____
Corporation CounselCertification Required ☐Not Required ☐

APPROVED 8-0

RECORD OF COUNCIL VOTE ON FINAL PASSAGE 9.9.15											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	ABSENT			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City N.J.

[Signature]
Rafael R. Lavarro, Jr., President of Council[Signature]
Robert Byrne, City Clerk

EXHIBIT A

EXHIBIT A

The developer shall be obligated to construct a ground floor unit consisting of a kitchen, living room, bathroom and two (2) bedrooms. This unit will be approximately 706 square feet.

2 L

268 Fairmount Avenue

1. Replace outlet covers in bathroom. 2 ea.

2. (15) VINYL REPLACEMENT WINDOWS- In bedroom and front room, remove existing double hung wood sash (and storm window). Furnish and install new double hung vinyl replacement window. The window is to be complete with solid vinyl construction, tilt-in sash, 7/8" insulated glass and 1/2 screen. Install aluminum cladding on exterior wood window frame. Install new interior window stops and finish to match the adjacent surface. Stabilize the existing paint on the interior window 2ea.

3. (16) NEW BI-FOLD DOOR -Bedroom, remove existing door and furnish and install new bi-fold door complete with hardware. Apply 1 prime coat and 1 finish coat of paint or varnish (inside and out), color to be selected by homeowner. 1ea

4. (30) NEW WALL CABINETS- Kitchen, remove existing kitchen cabinets and furnish and install new medium grade wall cabinets. 7 lf.

5. Remove old refrigerator and replace with new refrigerator in unit 2 L.

6. One toilet seat in unit 2 L

7. Remove all debris from unit 2L.

1. (16) NEW PASSAGE DOOR - In bathroom, remove existing door and furnish and install new hollow core wood door, frame and trim, including all new hardware. Apply 1 prime coat and 1 finish coat of paint or varnish (inside and out), color to be selected by owner 1 ea.

2. (26) LAMINATE W/DRYWALL- Four walls in the bathroom, install new ½" drywall over existing (wall) surface with screws, 8" o.c. The screws shall project 1" into the existing framing. Cut and tightly fit drywall around existing trim. (Retain existing baseboard and install new base cap and shoe moulding. Caulk all butting seams at door and window casings and base moulding). Tape and spackle all joints (3 coats) and sand smooth. Apply one prime and one finish coat of paint, color by homeowner. 160 sf

3. (28) PAINT CEILINGS, WALLS, TRIM-2 COATS- In #2R, scrape all loose and blistered paint from walls, ceilings, repair all holes and cracks, remove all foreign materials and paint one coat color to be selected by owner.

4. (30) NEW KITCHEN CABINETS - In kitchen apartment #2R, remove existing wall cabinets and furnish and install new medium grade wall cabinets . 13 LF

5. (30) NEW BASE CABINETS- In kitchen apartment #2R, remove existing base cabinets and furnish and install new medium grade base cabinets with laminated countertop and 4" backsplash 10 LF.

6. (31) NEW VINYL SHEET- Bathroom floor, 20 sf.

7. New bedroom door handle.

1. (15) (VINYL REPLACEMENT WINDOWS- Front room, remove existing double hung wood sash (and storm window). Furnish and install new double hung vinyl replacement window. The window is to be complete with solid vinyl construction, tilt-in sash, 7/8" insulated glass and 1/2 screen. Install aluminum cladding on exterior wood window frame. Install new interior window stops and finish to match the adjacent surface. Stabilize the existing paint on the interior window casing and sill. 2.ea.

2. (16) NEW PASSAGE DOOR- Apartment 3 L, remove existing door and furnish and install new hollow core wood door, frame and trim, including all new hardware. Apply 1 prime coat and 1 finish coat of paint or varnish (inside and out), to be selected by owner. 1 ea.

3. (30) NEW WALL CABINETS- Kitchen, remove existing wall cabinets and furnish and install new medium grade wall cabinets 6lf. Samples of cabinets, finishes, hardware and counter top shall be presented to the owner before fabrication. 6 lf.

4. (30) NEW BASE CABINETS- Kitchen, remove existing base cabinets and furnish and install new medium grade base cabinets with laminated counter top and 4" back splash 6 fl. Samples of cabinets, finishes, hardware and counter top shall be presented to the owner before fabrication. 6 lf.

5. (30) NEW RANGE HOOD- In kitchen, (1)

6. One new stove. (# 3L)

7. One New Refrigerator (#3 L)

8. Clean out all debris in unit (#3 L)

9. NEW VINYL SHEET, Flooring in unit (#3 L) (360 sf.)

10. (35) NEW / REPLACE LIGHT FIXTURE- In bathroom